

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PHILLIP VAVRO,)	
)	
Plaintiff,)	
)	2:05cv321
v.)	
)	Judge David S. Cercone
JAMES W. ALBERS and STANLEY)	Magistrate Judge Lisa Pupo Lenihan
BERENT,)	
)	Electronically Filed
Defendants.)	

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on March 10, 2005, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Document No. 76), filed on August 1, 2006, recommended that Defendants' Joint Motion to Dismiss the Third Amended Complaint (Document No. 66) should be granted and the Third Amended Complaint be dismissed in its entirety with prejudice. Service was made on all counsel of record. The parties were informed that in accordance with Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, that they had ten (10) days to file any objections. On August 3, 2006, Plaintiff filed a combined Motion to Enforce Recusal Order, Motion to Vacate the Report and Recommendation, and Motion to Transfer Case (Document No. 78), which was denied simultaneously by the undersigned District Judge and Magistrate Judge Lenihan on August 9, 2006 (Document Nos. 82 and 83). On August 4, 2006, Plaintiff filed a Motion for Discovery (Document

No. 80), which was denied by the Magistrate Judge on August 9, 2006 (Document No. 83). On August 18, 2006, Plaintiff filed two separate Motions for Reconsideration (Document Nos. 84 and 86) for each of the Orders docketed at No. 82 and No. 83. The undersigned District Judge entered an order on August 21, 2006 denying both motions for reconsideration (Document No. 88). Also on August 21, 2006, Plaintiff filed Objections to the Magistrate Judge's Report and Recommendation (Document No. 89). Defendants filed a Response to Plaintiff's Objections (Document No. 90) on August 24, 2006.

After review of the pleadings and the documents in the case, together with the report and recommendation, the objections thereto and the response to the objections, the combined motion to enforce recusal order, to vacate the Report and Recommendation and to transfer the case, and motions for reconsideration, the following order is entered:

AND NOW, this 29 day of August, 2006;

IT IS HEREBY ORDERED that Defendants' Joint Motion to Dismiss the Third Amended Complaint (Document No. 66) is **GRANTED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Report and Recommendation (Document No. 76) of Magistrate Judge Lenihan, dated August 1, 2006, is adopted as the opinion of the Court.

BY THE COURT:



DAVID STEWART CERCONI
United States District Judge

cc: Honorable Lisa Pupo Lenihan
United States Magistrate Judge

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